

REMARKS

I. Introduction

Claims 1 to 38, and 40 to 42 are currently pending in the present application. Claims 1,4, 14,15, 22, 24, , 33, and 41 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested. The amendments are supported by the original disclosure and do not present new matter. Moreover, Applicant submits that a new search is not required.

Applicants note that an initialed copy of the PTO-1449 paper filed with the Information Disclosure Statement on April 3, 2001 has not been returned. Applicants respectfully request consideration of the Information Disclosure Statement, PTO-1449 paper and cited references with the next Office communication.

II. Rejection of Claims 1, 2, 4 to 10, 14 to 16, 18, 19, 24 to 30, 33 to 36, and 41 Under 35 U.S.C. § 102(b)

Claims 1, 2, 4 to 10, 14 to 16, 18, 19, 24 to 30, 33 to 36, and 41 were rejected under 35 U.S.C. § 102(b) as anticipated by International Patent Application No. WO 99/66726 ("Dureau"). It is respectfully submitted that Dureau does not anticipate the present claims for at least the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

While the anticipation rejections are not agreed with, to facilitate matters, claims 1, 14, 33, and 41 have been amended herein without prejudice to recite the storing of output as a flat file. The use of a flat file, as disclosed in some example embodiments of Applicant's invention, allows extremely high transaction volumes to be supported in comparison with relational database approaches. Support for the amendments to the claims may be found in the Specification, e.g., at page 14, line 16.

With respect to claims 1, 14, 33, and 41, although Dureau may refer to an interactive digital television system for profiling user preferences, nowhere does Dureau state that response requests are collected or stored **as a flat file**.

Claim 15 was amended to correct a typographical error. Claim 15 recites that the “collecting and aggregating” are performed in real time. The Examiner’s comment in paragraph 24 of the office action seems to suggest that a transmission of data from the set top box in Dureau meets the “real time” limitation. However, Applicant respectfully submits that Dureau does not meet the recited limitation. Although the office action argues that at least some data is transmitted in real time in Dureau, nothing in the Office Action points out where aggregation is performed in Dureau in real time. Withdrawal of the rejection of claim 15 is thus respectfully requested.

Claim 24 has been amended herein without prejudice to more clearly recite a communications message server that normalizes response requests received at an interactive media subscriber network to which the server is connected subsequent to the receipt of the requests at the subscriber network. In paragraph 23 of the Final Office Action, the Office Action alleges that the set-top box of Dureau inherently includes a communications message server. However, the formatting performed at the set-top box in Dureau does not disclose, or even suggest, a message server for normalizing requests after the requests are received by a network from a plurality of access devices.

Thus, Dureau does not disclose, or even suggest, all of the limitations of any of claims 1, 14, 15, 24, 33, and 41. It is therefore respectfully submitted that Dureau does not anticipate any of claims 1, 14, 15, 24, 33, and 41.

Claims 2, and 4 to 10 ultimately depend from claim 1 and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 1.

Claim 4 has also been amended to make it more clear, but without a change in scope. In particular, “it” has been replaced by the already present antecedent. It should now be more clear that it is the *collected and aggregated* interactive output that is transmitted through the system in real time. In paragraph 24 of the Office Action, the Examiner argued that the in real time limitation “does not necessarily mean that the data is transmitted through the *entire* system in real time”. (emphasis in original). However, as will be made more clear by Applicant’s amendment of claim 4, it is the collected and aggregated data that must be transmitted in real time. Thus, the mere transmission of original data in or from the set top box will not satisfy the relevant claim limitation. Because Dureau does not teach or suggest transmitting *aggregated* data in real time, it does not anticipate Applicant’s claim 4.

Furthermore, claim 5 includes subject matter similar to that of claim 24. It is therefore respectfully submitted that Dureau does not anticipate claim 5 additionally for at least reasons similar to those set forth in support of the patentability of claim 24.

Claims 16, 18, and 19 ultimately depend from claim 15 and therefore include all of the limitations of claim 15. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 15.

Claims 25 to 30 ultimately depend from claim 24 and therefore include all of the limitations of claim 24. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 24.

Claims 34 to 36 ultimately depend from claim 33 and therefore include all of the limitations of claim 33. It is therefore respectfully submitted that Dureau does not anticipate these dependent claims for at least the same reasons set forth above in support of the patentability of claim 33.

III. Rejection of Claims 11 to 13, 20 to 23, 31, 32, 37, and 38 Under 35 U.S.C. § 103(a)

Claims 11 to 13, 20 to 23, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau and U.S. Patent No. 6,160,989 (“Hendricks et al.”). Applicants respectfully submit that the Examiner’s proposed combination of Dureau and Hendricks et al. does not render unpatentable claims 11 to 13, 20 to 23, 31, 32, 37, and 38 for the following reasons.

Claim 22 has been amended herein without prejudice to recite subject matter similar to that of claim 1. As set forth above, Dureau does not disclose or suggest all of the features of claim 1. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 1 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 1 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claim 22 which includes subject matter similar to that of claim 1.

Claims 11 to 13 ultimately depend from claim 1 and therefore include all of the limitations of claim 1. As set forth above in support of the patentability of claim 22, the combination of Dureau and Hendricks et al. does not disclose or suggest all of the limitations of claim 1. It is therefore respectfully submitted that the combination of Dureau and

Hendricks et al. does not render unpatentable claims 11 to 13, which ultimately depend from claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

Claims 20 and 21 depend from claim 15 and therefore include all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, Dureau does not disclose or suggest all of the limitations of claim 15. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 15 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 15 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 20 and 21, which depend from claim 15. *Id.*

Claim 23 depends from claim 22 and therefore includes all of the limitations of claim 22. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claim 23 for at least the same reasons set forth above in support of claim 22.

Claims 31 and 32 ultimately depend from claim 24 and therefore include all of the limitations of claim 24. As set forth above in support of the patentability of claim 24, Dureau does not disclose or suggest all of the limitations of claim 24. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 24 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 24 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 31 and 32, which ultimately depend from claim 24. *Id.*

Claims 37 and 38 depend from claim 33 and therefore include all of the limitations of claim 33. As set forth above in support of the patentability of claim 33, Dureau does not disclose or suggest all of the limitations of claim 33. Hendricks et al. are not relied upon for disclosing or suggesting the limitations of claim 33 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Hendricks et al. do not disclose or suggest the limitations of claim 33 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Hendricks et al. does not render unpatentable claims 37 and 38, which depend from claim 33. *Id.*

IV. Rejection of Claims 3, 17, 40, and 42 Under 35 U.S.C. § 103(a)

Claims 3, 17, 40, and 42 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau and U.S. Patent No. 6,658,458 (“Gai et al.”) (incorrectly identified in the Office Action as U.S. Patent No. 6,714,985). Applicants respectfully submit that the combination of Dureau and Gai et al. does not render unpatentable claims 3, 17, 40, and 42 for the following reasons.

Claim 3 ultimately depends from claim 1 and therefore includes all of the limitations of claim 1. As set forth above in support of the patentability of claim 1, Dureau does not disclose or suggest all of the limitations of claim 1. Gai et al. are not relied upon for disclosing or suggesting the limitations of claim 1 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Gai et al. do not disclose or suggest the limitations of claim 1 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Gai et al. does not render unpatentable claim 3, which ultimately depends from claim 1. *Id.*

Claim 17 ultimately depends from claim 15 and therefore includes all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, Dureau does not disclose or suggest all of the limitations of claim 15. Gai et al. are not relied upon for disclosing or suggesting the limitations of claim 15 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Gai et al. do not disclose or suggest the limitations of claim 15 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Gai et al. does not render unpatentable claim 17, which ultimately depends from claim 15. *Id.*

Claims 40 and 42 depend from claim 41 and therefore include all of the limitations of claim 41. As set forth above in support of the patentability of claim 41, Dureau does not disclose or suggest all of the limitations of claim 41. Gai et al. are not relied upon for disclosing or suggesting the limitations of claim 41 not disclosed or suggested by Dureau. Indeed, it is respectfully submitted that Gai et al. do not disclose or suggest the limitations of claim 41 not disclosed or suggested by Dureau. It is therefore respectfully submitted that the combination of Dureau and Gai et al. does not render unpatentable claims 40 and 42, which depend from claim 41. *Id.*

V. **Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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